

ORIGINAL

## In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 02-562V

Filed: August 27, 2015

Not to be Published

FILED

AUG 27 2015

U.S. COURT OF  
FEDERAL CLAIMS

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SANTOS MORA, father and  
next friend of DM, a minor,

Petitioner,

v.

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

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Autism; Failure to Prosecute;  
Failure to Follow Court  
Orders; Insufficient Proof of  
Causation; Dismissal

## DECISION

On May 31, 2002, Petitioner filed a Petition for Vaccine Compensation in the National Vaccine Injury Compensation Program,<sup>1</sup> alleging that DM was injured by a vaccine or vaccines listed on the Vaccine Injury Table. See § 14. I hereby dismiss this petition because Petitioner has failed to prosecute or prove this case.

On August 28, 2013, I filed an Order requiring Petitioner to file an expert report in support of his Petition, by October 28, 2013. Since that date, Petitioner's counsel filed successive motions, each requesting two to three additional months, in order to comply with my Order. (*See* Motions, filed on 10/28/13, 12/12/13, 3/27/14, 5/30/14, 7/24/14, 9/30/14, 12/1/14, 2/10/15). On June 26, 2015, Petitioner's counsel filed a Motion to withdraw as attorney of record. On June 30, 2015, I filed an Order granting the motion to withdraw as attorney of record which included a reminder to Petitioner of the Order I filed on June 26, 2015, requiring the expert report be filed by July 27, 2015.

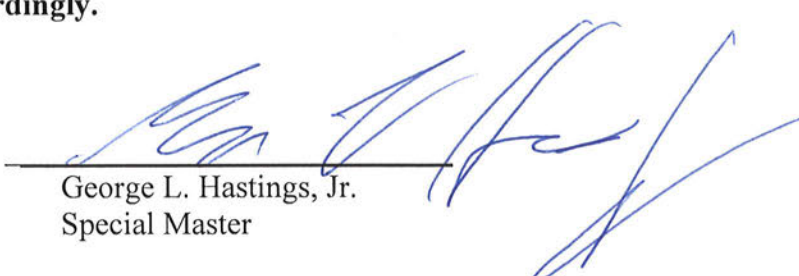
On July 29, 2015, I filed a Final Warning to Petitioner to file an expert report on or before August 15, 2015, warning that not doing so would be interpreted as a failure to prosecute this claim. Petitioner was also advised that failure to follow court orders would result in dismissal of Petitioner's claim. *Tsekouras v. Sec'y, HHS*, 26 Cl. Ct. 439 (1992), *aff'd per*

<sup>1</sup> The Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-10 *et seq.* (hereinafter "Vaccine Act" or "the Act"). Hereafter, individual section references will be to 42 U.S.C. § 300aa of the Act.

*curiam*, 991 F.2d 810 (Fed. Cir. 1993); *Sapharas v. Sec'y, HHS*, 35 Fed. Cl. 503 (1996); Vaccine Rule 21(b). Petitioner has not filed an expert report or responded.

Accordingly, **this case is dismissed for failure to prosecute and failure to follow court orders. The clerk shall enter judgment accordingly.**

**IT IS SO ORDERED.**



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George L. Hastings, Jr.  
Special Master